

CITY COUNCIL ORDINANCE NO. [number] INTRODUCED BY [name]

BACKGROUND:

As our climate and city continue to change, Columbus can expect increased temperatures and population growth over the next several decades. The City of Columbus is committed to taking steps to mitigate and adapt our community's changing climate to ensure a healthy and prosperous community for all our residents now and in the future. Since 2005, the City has been working to combat these changes by reducing municipal and community-wide greenhouse gas emissions through environmental policies.

The purpose of this ordinance is to establish an energy and water benchmarking, reporting, and transparency requirement for certain buildings within its jurisdiction. With this ordinance, the City of Columbus and local property owners can drive energy and water efficiency in our building stock, save money for businesses and residents, and foster a cleaner and healthier environment.

A public hearing was held before the Columbus Building Commission on Month XX, 2020, whereupon they voted to recommend this proposed code change be forwarded to Columbus City Council for adoption.

FISCAL IMPACT: TBA

Title

To enact a new Chapter in the Columbus Building Code, Title 41, entitled Chapter 4117, "Energy Benchmarking," containing new requirements to establish an energy and water benchmarking, reporting, and transparency requirement for certain buildings within its jurisdiction.

Body

WHEREAS, the City intends to raise awareness of energy and water performance through data information and transparency, with the goal of unlocking energy and cost savings opportunities and health benefits for businesses and residents; and

WHEREAS, improvements to energy efficiency will spur economic investment through reduced operating costs, increased asset values, and improved worker productivity; and

WHEREAS, energy efficient buildings will consume less power, resulting in fewer greenhouse gas emissions and improved air quality; and

WHEREAS, reduced energy costs will create an efficient building stock and maintain affordability for tenants and businesses; and

WHEREAS, a public hearing was held before the Columbus Building Commission on Month XX, 2020, whereupon they voted to recommend this proposed code change be forwarded to Columbus City Council for adoption; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Columbus City Codes are hereby supplemented by the enactment of a new Chapter 4117, "Energy Benchmarking," consisting of nine sections oddly numbered 4117.01 through 4117.17 and reading as follows:

4117.01 Purpose.

The purpose of this chapter is to establish an energy and water benchmarking, reporting, and transparency requirement for certain buildings within the city. The energy and water use of a Covered Property shall be benchmarked and submitted to the city in accordance with this chapter.

4117.03 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section unless context indicates otherwise. All other definitions of this title shall apply. If there is a conflict between the definitions contained herein and those of C.C. 4101, the definitions contained herein shall apply to this chapter.

- 1) “Aggregated Whole-Building Data” means energy or water data that has been summed for an entire Property, which may include a single occupant or a group of separately metered Tenants.
- 2) “Benchmark” means to input and submit the total energy and water consumed for a Property and other descriptive information for such Property, for the previous calendar year, as required by the Benchmarking Tool. Total energy and water consumption shall not include separately metered uses that are not integral to building operations, as determined by the Director.
- 3) “Benchmarking Report” means a subset of:
 - a. Information input into the Benchmarking Tool; and
 - b. Benchmarking information generated by the Benchmarking Tool, as determined by the Director.
- 4) “Benchmarking Tool” means the U.S. Environmental Protection Agency’s ENERGY STAR® Portfolio Manager® tool, or any additional or alternative tool adopted by the Director, used to track and assess the energy and water use of certain properties relative to similar properties.
- 5) “Condominium” means a Property that combines separate Ownership of individual units with common Ownership of other elements such as common areas.
- 6) “Covered City Property” means a Property that:
 - a. Exceeds 25,000 gross square feet in total floor area; and
 - b. Is owned, leased, or managed by the City such that the City regularly pays all or part of the annual energy and/or water bills.
- 7) “Covered Non-City Property” means a Property, other than a Covered City Property, that exceeds 50,000 gross square feet in total floor area.
- 8) “Covered Property” means any Covered City Property or Covered Non-City Property.
 - a. Single family, duplex, and triplex residential homes and related accessory structures, or any other residential building with less than four units are not considered to be Covered Properties and are not subject to the requirements of this chapter.
 - b. Properties owned by the State of Ohio and Federal Government are expected to make reasonable effort to comply with the requirements of this chapter.
- 9) “Data Quality Checker” means the function in ENERGY STAR Portfolio Manager that runs a set of basic data checks on properties to help identify possible data entry errors and to see whether a building differs from typical operational patterns.
- 10) “Department” means the Department of Building & Zoning Services.

- 11) “Director” means the Director of the Department of Building & Zoning Services or their designee.
- 12) “Energy” means electricity, natural gas, steam, or other product sold by a Utility to a customer of a Property, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses as recorded in the Benchmarking Tool.
- 13) “ENERGY STAR Portfolio Manager” means the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings.
- 14) “ENERGY STAR Score” means the 1-100 numeric rating generated by the ENERGY STAR Portfolio Manager tool as a measurement of a building’s energy efficiency.
- 15) “Gross Floor Area” means the total Property area, measured between the outside surfaces of the exterior walls of the building(s). This includes all areas inside the building(s) including but not limited to lobbies, Tenant areas, common areas, meeting rooms, break rooms, atriums (count the base level only), restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, and storage rooms.
- 16) “Owner” means any of the following:
- An individual or entity possessing title to a Property;
 - The board of the Owners’ association, in the case of a Condominium;
 - The master association, in the case of a Condominium where the powers of an Owners’ association are exercised by or delegated to a master association;
 - The board of directors, in the case of a cooperative apartment corporation; or
 - An agent authorized to act on behalf of any of the above.
- 17) “Property” means any of the following:
- A single building;
 - One or more buildings held in the Condominium form of Ownership, and governed by a single board of managers; or
 - A campus of two or more buildings which are owned and operated by the same party, have a single shared primary function, and are:
 - Behind a common Utility meter or served by a common mechanical/electrical systems (such as a chilled water loop) which would prevent the Owner from being able to easily determine the energy use attributable to each of the individual buildings; or
 - Used primarily for one of the following functions:
 - K-12 school
 - Hospital
 - Hotel
 - Multifamily housing
 - Senior care community
- 18) “Data Transparency” means information generated by the Benchmarking Tool and descriptive information about the physical Property and its operational characteristics, which is shared with the public. The information, as defined by the ENERGY STAR Portfolio Manager glossary, shall include, but is not limited to:
- Descriptive information
 - Property address;
 - Primary use;
 - Gross Floor Area;

- iv. Number of floors;
 - v. Number of years the Property has been ENERGY STAR Certified and the last approval date, if applicable; and
 - vi. Individual or entity responsible for the Benchmarking Report.
- b. Output information
- i. Site and source energy use intensity;
 - ii. Weather normalized site and source energy use intensity;
 - iii. The ENERGY STAR Score, where available;
 - iv. Total annual greenhouse gas emissions;
 - v. Monthly energy use, by fuel type;
 - vi. Indoor water use and water use intensity (consumption per gross square foot);
 - vii. Outdoor water use (where available);
 - viii. Total water use;
 - ix. The ENERGY STAR Water Score, where available; and
 - x. General comments section, if needed, to explain the building's ENERGY STAR Score and/or operating characteristics.
- c. Status of compliance or noncompliance with the requirements of the ordinance.
- 19) "Tenant" means a person or entity occupying or holding possession of a building, or part of a building or premises pursuant to a rental or lease agreement.
- 20) "Utility" means an entity that distributes and/or sells natural gas, electric, water, or thermal energy services for buildings.

4117.05 Collecting and Entering Benchmarking Data.

- 1) Each year the Owner of each Covered Property shall collect and enter all data needed to Benchmark the entire Property for the previous calendar year into the Benchmarking Tool. Aggregated Whole-Building Data for the Property's energy and water use shall be compiled using one or more of the following methods:
 - d. Obtaining Aggregated Whole-Building Data from a Utility;
 - e. Collecting data from all Tenants; or
 - f. Reading a master meter.
- 2) If the Owner of a Covered Property does not have access to Aggregated Whole-Building Data (energy and water), such Property Owner shall request Aggregated Whole-Building Data from each Utility company that provides energy or water service to the Property. If a Utility does not provide Aggregated Whole-Building Data (energy or water), the Owner of a Covered Property shall request energy and water data from Tenants.
- 3) Nothing in this chapter shall be construed to permit a Property Owner to use Tenant energy usage data for purposes other than compliance with Benchmarking Report requirements, nor shall the reporting requirements of this chapter be construed to excuse Property Owners from compliance with federal or state laws governing direct access to Tenant Utility data from the responsible Utility.
- 4) When a Covered Property changes Ownership, the previous Owner shall provide the new Owner with all information needed to Benchmark for the period during which the previous Owner was in possession of the Property.

4117.07 Benchmarking Reporting.

- 1) For every Covered Property subject to this chapter, the Owner shall submit a Benchmarking Report in an electronic format via ENERGY STAR Portfolio Manager annually, by the date specified in section 4117.09: Benchmarking Schedule.
- 2) The information included in the Benchmarking Report shall include the data entered in the Benchmarking Tool, as defined in sections 4117.03.02 – 4117.03.04 of this chapter, for the previous calendar year.
- 3) The Owner of each Covered Property shall ensure that data entered into the Benchmarking Tool shall be based on the Aggregated Whole-Building Data (energy and water) for the calendar year being reported.
- 4) Before submitting a Benchmarking Report, the Owner shall run all Data Quality Checker functions available within the Benchmarking Tool and shall verify that all data has been accurately entered into the Benchmarking Tool. In order for the Benchmarking Report to be considered in compliance with this ordinance, the Owner shall correct all missing or incorrect information as identified by the Data Quality Checker prior to submitting the Benchmarking Report to the Director.
- 5) Where the current Owner becomes aware that any information reported as part of the current year Benchmarking Report is inaccurate or incomplete, the Owner shall amend the information reported within the Benchmarking Tool, and shall provide the Director with an updated Benchmarking Report within 30 days of learning of the inaccuracy.

4117.09 Benchmarking Schedule.

- 1) The Owner of a Covered Property shall ensure that a Benchmarking Report is generated, completed, and submitted to the Director annually for each Covered Property.
- 2) The initial Benchmarking Report for each Covered Property shall be filed in accordance with the schedule in the following table. Subsequent Benchmarking Reports for each Covered Property shall be due by June 1 of each year thereafter.
- 3) The Director shall make each Covered Property's Data Transparency information available to the public beginning the year after the Property is first required to submit a Benchmarking Report in accordance with the schedule in the following table. Subsequent Data Transparency information will be made public each year thereafter.

Property	Initial Reporting Date	Initial Data Transparency Year
Covered City Properties \geq 25k sq. ft.	June 1, 2021	2022
Covered Non-City Properties \geq 100k sq. ft.	June 1, 2021	2022
Covered Non-City Properties \geq 50k sq. ft.	June 1, 2022	2023

4117.11 Benchmarking Exemptions.

- 1) A Covered Property that meets one or more of the following conditions for the calendar year to be Benchmarked may apply for an exemption from Benchmarking and Data Transparency requirements if:
 - a. The Property did not have a Certificate of Occupancy or temporary Certificate of Occupancy for that full year; or
 - b. If the Property was issued a Demolition Permit during the prior calendar year; or
 - c. The Property had an average physical occupancy rate of less than 50 percent over that year; or

- d. If Benchmarking or Data Transparency would disclose trade secrets as defined by [Ohio Revised Code Sections 1333.61 through 1333.69](#); or
- e. Buildings primarily used for manufacturing or other industrial purposes for which Benchmarking results would not meaningfully reflect building energy use characteristics due to the intensive use of process energy. “Process energy” refers to energy used in the actual manufacturing, production, or processing of a good, commodity, or other material.

4117.13 Maintenance of Records.

- 1) Each Owner shall maintain the data submitted to the Benchmarking Tool and supporting data, including but not limited to, the energy and water bills and reports or forms received from Tenants and/or Utilities pursuant to this chapter. Such records shall be preserved for a period of five years. At the request of the Director, such records shall be made available for inspection by the Director. If a Property is sold, the records shall be given to the new Property Owner and the online ENERGY STAR Portfolio Manager Benchmarking records shall be transferred to the new Owner.
- 2) The Department reserves the right to review records as it deems necessary to evaluate the efficacy of this Ordinance. Records shall be provided to the Director upon request.

4117.15 Violations and Enforcement.

- 1) It shall be unlawful for any entity, person, Tenant, or Owner to fail to comply with the requirements of this ordinance or misrepresent any material fact in a document required to be prepared or shared by this ordinance.
- 2) If the Director determines that a Property Owner has failed to submit a Benchmarking Report as required under this ordinance, or the Owner has submitted an incomplete Benchmarking Report or false information within the Benchmarking Report, the Director may seek the following remedies:
 - a. A written warning may be issued for the violation; and
 - b. If the initial Benchmarking information or updated Benchmarking information is not reported within 30 days of the date the written warning is issued, the Property Owner may be issued a late fee.
 - c. If initial Benchmarking information or updated Benchmarking information is not reported within 90 days of the date the notice of violation is issued, the Property Owner may be issued a late fee then and every three months thereafter.
 - d. If the Director determines that a Property Owner has intentionally submitted false or incomplete information, or has misrepresented the Benchmarking information, the Director may issue a notice of violation with a fee. Each year of noncompliance shall constitute a separate offense punishable upon conviction by an additional fee.
 - e. All fees referenced in this chapter will be determined per the Columbus City Code sections 4103.14 and 901.01 and the current [Combined Development Related Fee Schedule](#).

4117.17 Rules.

The Director may adopt such rules and regulations as deemed necessary to carry out the provisions of this chapter.

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period provided by law.